

Remarks

In the official action, the Examiner objected to Figures 1 and 2 since they were not labelled as being prior art. As the Examiner will note by reference to the accompanying drawing amendments, that issue has been addressed.

The Examiner objected to the abstract. As the Examiner will note by reference to the amendments made herein, a new abstract has been provided and it is hoped that the Examiner will be satisfied with the new abstract submitted herewith.

In paragraph four of the official action, the Examiner asserts that the specification includes certain terms which are not clear, concise and exact. Although the specification has been amended to improve the English syntax and to remove certain ones of the hyphens used therein, it is asserted that the rejection under 35 U.S.C. 112, first paragraph, is unwarranted. It is asserted that the specification as originally submitted and as amended herein fully complies with 35 U.S.C. 112, first paragraph.

With respect to the Examiner's objection to "arranged in an untidy way", it is not understood how that phrase is unclear. If the Examiner does a search at the USPTO web site for the word "untidy", the Examiner will find over 500 issued US patents which use the term. Since the term is certainly used in the technological arts, it is not seen how its use in the this patent application can be subject to objection.

The Examiner rejected claims 1, 2, and 4-9 under 35 U.S.C. 112, second paragraph, as allegedly being unclear. Claim 1, as presently amended, now includes sufficient support for

the term “stacks” therein. As such, it is hoped that the Examiner will now withdraw this grounds for rejection.

In paragraph 8 of the official action, the Examiner rejects claims 1, 2 and 4-9 under 35 U.S.C. 103 as being unpatentable over Sherwin in view of Galbani and DelDuca. This grounds for rejection is respectfully traversed.

First, it is noted that the Examiner has the obligation, under the rules of practice, to clearly point out how each and every limitation of the claims is met by the cited references. That the Examiner has not done. Merely asserting that something is “similar” is not sufficient under the rules of practice which require that the particular part of each cited reference be “designated as nearly as practicable” (see 37 CFR 1.104(c)(2)). Thus the Examiner is requested, with all due respect, if the Examiner is going to continue to reject any claims in this application on the prior art, to read the claims specifically on the prior art documents.

With respect to the Examiner’s comments about the motivation for combining the references, the Examiner’s assertions are not understood. For example, Sherwin ‘276 clearly shows a stack of cups or similar items in the Figures thereof. DelDuca ‘313, on the other hand, shows a stack of articles 40 which may comprise lids, for example. Since the DelDuca machine already handles lids, why modify Sherwin, which is obviously adapted for handling cups, to instead handle lids? The Examiner’s rationale for modifying Sherwin seems to be “let’s modify Sherwin just for the sake of modifying it”. Since the DelDuca apparatus cited by the Examiner already handles lids, why would anyone who had ordinary skill in the art possibly want to go to the trouble of modifying Sherwin?

The same question could be asked of Galbani. Just what problem is there associated with the Sherwin apparatus which is solved by Galbani so that a person of ordinary skill in the art who is familiar with Sherwin would be motivated to somehow modify it in accordance with the teaching of Galbani?

A rejection based upon a pasting of these three prior art references together just does not, with all due respect to the Examiner, make sense. It is submitted that a person of ordinary skill in the art would not modify Sherwin to handle lids. Rather, a person of ordinary skill in

the art would just use the DelDuca apparatus which apparently already handles lids without further modification.

Reconsideration of this application as amended is respectfully requested.

The Commissioner is authorized to charge any additional fees, which may be required or credit overpayment to deposit account no. 12-0415. In particular, if this response is not timely filed, then the Commissioner is authorized to treat this response as including a petition to extend the time period pursuant to 37 CFR 1.136 (a) requesting an extension of time of the number of months necessary to make this response timely filed. The petition fee due in connection therewith may be charged to deposit account no. 12-0415.

I hereby certify that this correspondence is being deposited with the United States Post Office with sufficient postage as first class mail in an envelope addressed to Commissioner for Patents, PO Box 1450, Alexandria, VA 22313-1450 on

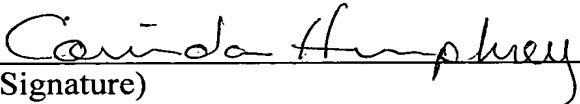
Respectfully submitted,

March 22, 2004

(Date of Deposit)


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March 22, 2004

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